

If a determination is made that the FOIA request needs to be assigned to a different Division, Region and/or Headquarters, please inform the FOIA Office within 24 hours of receipt.

**FREEDOM OF INFORMATION ACT REQUEST
EPA-R6-2019-008223**

REQUEST DATE: Aug. 16, 2019 **PERFECTED/CLOCK START:** Aug. 23, 2019

REQUESTOR INFORMATION:

Joshua Smith
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612

Email: Joshua.smith@sierraclub.org Work Phone # 415-977-5560
Fax: # 510-208-3140

FEE CATEGORY: OTHER FEE WAIVER DETERMINATION PENDING EPA HQ

*******SUBJECT*******

See attached. Sierra Club requests the following records in the possession, custody, or control of the U.S. Environmental Protection Agency ("EPA") concerning Acting Administrator of the Office of Air and Radiation ("OAR") Anne Idsal for the period December 1, 2017 through the present:

1. All records relating to EPA's ethics or conflict of interest review for Anne Idsal, including, but not limited to, any formal or draft ethics opinion concerning Anne Idsal's conflicts of interest or any recommendations relating to recusal from matters regarding the Texas Regional Haze 5 Year Program Report, hereinafter ("Texas Regional Haze") and the Texas SO2 Transport State Implementation Plan, hereinafter ("Texas SO2 SIP").²
2. All records generated or provided by Anne Idsal to EPA concerning any potential conflict of interest relating to Texas Regional Haze and the Texas SO2 SIP.
3. All records reflecting communications between employees of EPA regarding any potential conflict of interest involving Ms. Idsal and relating to Texas Regional Haze and the Texas SO2 SIP.
4. All records reflecting communications between EPA, the Department of Justice, Texas Center for Environmental Quality ("TCEQ"), and the Texas Attorney General relating to any potential conflict of interest involving Ms. Idsal and regarding Texas Regional Haze and the Texas SO2 SIP.

*******ASSIGNED OFFICE(s)*******

6AR – NOTE: AR must conduct first line review for HQ OAR. HQ reassigned this FOIA request to Region 6 to complete as most records are in the possession of R6 for the time period requested. Do not ask for this FOIA request to be reassigned to HQ. HQ Kristina Sandfoss (for Ann Idsal) also has been asked to coordinate with R6 on responsive records.

HQ OAR

DUE DATE: Sept. 23, 2019

*****SPECIAL INSTRUCTIONS TO DIVISIONS*****

1. Always note Fee commitment by requester: \$ 25.00
2. Call the requester with a fee estimate, if cost is expected to exceed amount committed \$ 25.00
3. Each Division must obtain Division Director or delegate concurrence on denial log before routing to 6RC signature.
4. Send a copy of the response and cost information sheet to the FOIA Office (6RC).

*****DO NOT WRITE IN THIS SPACE, FOR FOIA OFFICE USE ONLY*****

BILLABLE COST

| | \$4.00 | \$7.00 | \$10.25 | Pages | Other | TOTAL |
|--------|---------------|---------------|----------------|--------------|--------------|--------------|
| 6AR | | | | | | |
| HQ OAR | | | | | | |

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August 16, 2019

VIA FOIA ONLINE

**U.S. Environmental Protection Agency
Headquarters**

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Phone: (202) 566-1667

Regional Freedom of Information Officer
U.S. EPA, Region 6
1445 Ross Avenue (6MD-OE)
Dallas, TX 75202-273

Re: Freedom of Information Act Request: Acting Assistant Administrator for the Office of Air and Radiation Anne Idsal.

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, as amended ("FOIA"), and the EPA regulations at 40 C.F.R. § 2.100, *et seq.* This request is sent to you because you were identified as the proper person to receive such requests. If this request should be directed at another person, please forward this request to that person.

Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of climate change, fossil fuel energy and clean energy, as well as the organization's long-standing interest in government accountability and transparency.

REQUESTED RECORDS¹

Sierra Club requests the following records in the possession, custody, or control of the U.S.

¹ "Records" means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of EPA, National Headquarters and all of its Offices, Regions and other subdivisions.

Environmental Protection Agency (“EPA”) concerning Acting Administrator of the Office of Air and Radiation (“OAR”) Anne Idsal for the period December 1, 2017 through the present:

1. All records relating to EPA’s ethics or conflict of interest review for Anne Idsal, including, but not limited to, any formal or draft ethics opinion concerning Anne Idsal’s conflicts of interest or any recommendations relating to recusal from matters regarding the Texas Regional Haze 5 Year Program Report, hereinafter (“Texas Regional Haze”) and the Texas SO₂ Transport State Implementation Plan, hereinafter (“Texas SO₂ SIP”).²
2. All records generated or provided by Anne Idsal to EPA concerning any potential conflict of interest relating to Texas Regional Haze and the Texas SO₂ SIP.
3. All records reflecting communications between employees of EPA regarding any potential conflict of interest involving Ms. Idsal and relating to Texas Regional Haze and the Texas SO₂ SIP.
4. All records reflecting communications between EPA, the Department of Justice, Texas Center for Environmental Quality (“TCEQ”), and the Texas Attorney General relating to any potential conflict of interest involving Ms. Idsal and regarding Texas Regional Haze and the Texas SO₂ SIP.

For purposes of this request, the term “person outside of EPA” means any person who is **not** an employee within the EPA, subject to the following exclusions: We are **not** seeking communications to or from persons employed elsewhere within the Executive Branch of the United States; persons employed by the executive branch of any state (i.e. state agencies); or persons who have an executed legal contract to provide consulting or other services to EPA. You may also specifically exclude from processing and release any records that are publicly available (e.g., through regulations.gov).

This request includes communication related to EPA that is or was on any system or device, computer, phone, smartphone, tablet, email account, cloud, server or other communication system either **personal or business** that is or was owned **or** operated by Ms. Idsal or otherwise established for the purposes of communicating with Ms. Idsal.

This request includes all emails or other communications from any **personal** account operated by Ms. Idsal which have been forwarded into an EPA government email account.

This request applies to all email accounts assigned to or operated by Ms. Idsal, whether on an official EPA email address or server or not, that relate to official business of EPA. This request applies to so-called “alias” email accounts that may or may not include the name Anne or Idsal in the email address.

² See EPA, Office of the Regional Administrator, Anne Idsal Recusal Statement Memorandum at 3 (July 24, 2018), available at https://www.eenews.net/assets/2018/08/06/document_gw_05.pdf; see generally Reilly, Sean, E&E News, Texan at air office helm positioned to settle old scores (Aug. 8, 2019), available at <https://www.eenews.net/stories/1060887843>.

Duty to Preserve Records

EPA must preserve all the records requested herein while this FOIA is pending or under appeal. 40 C.F.R. § 2.106 (“[r]ecords shall not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA”); *see Chambers v. U.S. Dep’t of Interior*, 568 F.3d 998, 1004 (D.C. Cir. 2009) (“an agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under FOIA or the Privacy Act”). Accordingly, please immediately advise custodians of potentially responsive records that the above records have been requested under FOIA and therefore may not be destroyed.

If any of the requested records are destroyed, the agency and responsible officials are subject to attorney fee awards and sanctions, including fines and disciplinary action. A court held EPA in contempt for “contumacious conduct” and ordered the agency to pay plaintiff’s costs and fees for destroying “potentially responsive material contained on hard drives and email backup tapes.” *Landmark Legal Found. v. EPA*, 272 F.Supp.2d 59, 62 (D.D.C. 2003); *see also Judicial Watch, Inc. v. Dep’t of Commerce*, 384 F. Supp. 2d 163, 169 (D.D.C. 2005) (awarding attorneys’ fees and costs because, among other factors, agency’s “initial search was unlawful and egregiously mishandled and ...likely responsive documents were destroyed and removed”), *aff’d in relevant part*, 470 F.3d 363, 375 (D.C. Cir. 2006) (remanding in part to recalculate attorney fees assessed). In another case, in addition to imposing a \$10,000 fine and awarding attorneys’ fees and costs, the court found that an Assistant United States Attorney prematurely “destroyed records responsive to [the] FOIA request while [the FOIA] litigation was pending” and referred him to the Department of Justice’s Office of Professional Responsibility. *Jefferson v. Reno*, 123 F. Supp. 2d 1, 6 (D.D.C. 2000).

EXEMPT RECORDS

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial. To comply with legal requirements, the following information must be included:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and deliver the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in the format requested if the record is readily reproducible by the agency in that format. *See, e.g.*, 5 U.S.C. § 552(a)(3)(B). We request that you provide electronic documents individually, and not as batched files. Specifically, for any document

stored as Electronically Stored Information (ESI), we request that the document be produced in the native file type. This includes e-mail (whether sent, received or drafted), word-processing files, tables, charts, graphs and database files, electronic calendars, proprietary software files, and spreadsheets. ESI can also be provided in the form of a load file that includes a common file type (TIFF, HTML, PDF) while maintaining access to the native file and its source data, including the ability to keyword search documents.

RECORD DELIVERY

We appreciate a prompt determination on the requested records. As mandated in FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i) ; 40 C.F.R. § 2.104. Please email copies of the requested records to the e-mail address below. Please deliver documents that are not available in an electronic format to the physical address below. Failure to comply within the statutory timeframe may result in Sierra Club filing an action before the relevant U.S. District Court to ensure timely receipt of the requested materials.

Deliver electronic documents to:

Joshua Smith, Sierra Club
joshua.smith@sierraclub.org

Deliver other documents to:

Joshua Smith, Senior Attorney
 Sierra Club - Environmental Law Program
 2101 Webster Street, Suite 1300
 Oakland, CA 94612

Please send documents on a rolling basis. EPA's search for—or deliberations concerning—certain records should not delay the production of others that EPA has already retrieved and elected to produce. *See generally* 40 C.F.R. § 2.104 (describing response deadlines).

FEE WAIVER REQUEST

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l).³

³ With the award-winning Sierra magazine and its extensive use of blogs to communicate with the public, Sierra Club would also be eligible for a fee waiver as a media requestor. 5 U.S.C. § 552(a)(4)(A)(ii); 40 C.F.R. § 2.107(c)(1)(iii); *see also* 40 C.F.R. § 2.107(b)(6) (defining “[r]epresentative of the news media”). A representative of the news media is “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); *see also Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 6, 11-15 (D.D.C. 2003) (a “non-profit public interest organization” qualifies as a representative of the news media under FOIA where it publishes books and newsletters on issues of current interest to the public).

Sierra Club is the nation's oldest grassroots non-profit organization with more than 3.5 million members and supporters nationwide and with tens of thousands of members, supporters, and local chapters in Texas. Sierra Club has played significant roles in numerous administrative and judicial proceedings that directly relate to the enforcement and implementation of regional haze rulemakings and state and federal implementation plans. In particular, Sierra Club has participated in several rulemakings and judicial proceedings related to implementation and enforcement of the health based standard for sulfur dioxide pollution in Texas. Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA.⁴

FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as Sierra Club access to government records without the payment of fees. *Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984) (fee waiver provision intended "to prevent government agencies from using high fees to discourage certain types of requesters and requests," which are "consistently associated with requests from journalists, scholars, and non-profit public interest groups.").

As explained below, this FOIA request satisfies the factors listed in EPA's governing regulations for waiver or reduction of fees, as well as the requirements for a fee waiver under the FOIA statute – that "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii), *see also* 40 C.F.R. § 2.107(l).

1. The subject matter of the requested records specifically concerns identifiable "operations and activities of the government."

The requested records relate to communications by Anne Idsal, Acting Assistant Administrator for the OAR of the U.S. EPA with external parties that are directly regulated by EPA or represent regulated parties. These records will contribute to an understanding of the operations and actions of the EPA under the Trump Administration as they relate to Texas Regional Haze and the Texas SO₂ SIP. By their very definition, these activities are "identifiable operations or activities of the government."

⁴ For recent examples, *see* FOIA Request Reference Nos. EPA-HQ-2018-011215 and EPA-HQ-2018-01217 (fee letter waiver received Sept. 12, 2018); FOIA Request Reference Nos. EPA-HQ-2018-011216 and EPA-HQ-2018-011218 (fee letter waiver received Sept. 11, 2018).

2. The disclosure of the requested documents would be meaningfully informative and “likely to contribute to an understanding of Federal government operations or activities.”

Disclosure of the requested records will allow Sierra Club to convey information to the public about the communications and correspondence of Ms. Idsal and regarding ethics or conflict of interest review for Ms. Idsal, which will reflect the actions, objectives, and priorities under the Trump Administration relating to Texas Regional Haze and the Texas SO₂ SIP, two matters from which Ms. Idsal originally recused herself in July 2018.⁵ In a recent Updated Recusal Statement, Ms. Idsal claimed that her participation in those matters was insubstantial, and therefore, any future participation of Ms. Idsal in Texas Regional Haze and the Texas SO₂ SIP would face no objections from TCEQ or the Office of General Counsel/Ethics.⁶

In her role as Acting Assistant Administrator for OAR, Ms. Idsal will be working on regional haze rulemaking in Texas, for which a supplemental notice of proposed rulemaking is expected to be issued this fall.⁷ The proposed rulemaking is a source of significant public concern, and the public at large and Sierra Club membership are extremely concerned that EPA is working to further the fortunes of industry representatives rather than to ensuring a healthy and safe environment for American families.

Once the requested documents are made available, Sierra Club will analyze them and present its findings to its members and online activists and the general public in a manner that will meaningfully enhance the public’s understanding of how Ms. Idsal is acting and operating within the EPA, particularly with respect to plans to Texas Regional Haze and Texas SO₂ SIP. The documents requested will thus be “meaningfully informative” and “likely to contribute” to an understanding of EPA’s operations.

The requested records are not otherwise in the public domain and are not accessible other than through a FOIA request. Indeed, the request explicitly excludes those documents already available through regulations.gov. Thus, the requested documents provide information that is not already in the public domain and is accordingly likely to meaningfully contribute to public understanding of governmental operations.

3. The disclosure would contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.

Sierra Club has longstanding experience and expertise in the subject area of the FOIA requests, including issues related to government accountability and transparency, and the activities that properly fall within the mission of the EPA.

⁵ See EPA, Office of the Regional Administrator, Anne Idsal Recusal Statement Memorandum at 3 (July 24, 2018), available at https://www.eenews.net/assets/2018/08/06/document_gw_05.pdf.

⁶ See EPA, Office of the Regional Administrator, Anne Idsal Updated Recusal Statement Memorandum at 3 (May 15, 2019), available at https://www.eenews.net/assets/2019/08/08/document_gw_04.pdf.

⁷ Reilly, Sean, E&E News, EPA plans changes to Texas haze proposal (Aug. 1, 2019), available at <https://www.eenews.net/greenwire/stories/1060823937/>.

Sierra Club disseminates the information it receives through FOIA requests in a variety of ways, such as: analysis and distribution to the media, distribution through publication and mailing, posting on its website, emailing and list serve distribution to our members across the U.S., and via public meetings and events. Every year the Sierra Club website receives 26,298,200 unique visits and over 30 million page views; on average, the site gets 72,049 visits per day. Sierra Magazine is a bi-monthly magazine with a printed circulation of approximately 650,000 copies. Sierra Club Insider, an electronic newsletter, is sent to nearly 3.5 million people twice a month. In addition, Sierra Club disseminates information obtained by FOIA requests through comments to administrative agencies.⁸

Sierra Club intends to share the information received from this FOIA request with the general public, our impacted members across the country, the media and our allies who share a common interest in the operations of the EPA.

Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

4. The disclosure would contribute “significantly” to public understanding of government operations or activities.

As discussed in section (2) above, the records requested will significantly contribute to the public understanding of governmental operations and activities. Disclosure of EPA’s ethics or conflict of interest review relating to Texas Regional Haze and Texas SO₂ SIP for Ms. Idsal, as well as communications regarding these matters, will significantly enhance the public’s understanding of whether EPA is advancing its stated mission to protect public health and the environment, or whether EPA is advancing the agenda of polluters.

5. The requester has no commercial interest that would be furthered by the requested disclosure.⁹

Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. Sierra Club is a nonprofit, tax-exempt organization under sections

⁸ For example, Sierra Club recently publicized results of its FOIA requests regarding outside influence on foreign travel at the EPA, a story that was picked by the New York Times. Lisa Friedman, Eric Lipton and Kenneth P. Vogel, *Ex-Lobbyist for Foreign Governments Helped Plan Pruitt Trip to Australia*, The New York Times, <https://www.nytimes.com/2018/05/02/climate/epa-pruitt-australia-travel.html>. Sierra Club also recently publicized the results of its FOIA requests regarding agency job freezes, a story that was picked up by the Washington Post. Alexander Rony, *Trump Admin Policy Leaves 700 CDC Jobs Vacant*, The Planet, <http://www.sierraclub.org/planet/2017/05/trump-admin-policies-leave-700-cdc-jobs-vacant>; Lena H. Sun, *Nearly 700 vacancies at CDC because of Trump administration’s hiring freeze*, The Washington Post, https://www.washingtonpost.com/news/to-your-health/wp/2017/05/19/nearly-700-vacancies-at-cdc-because-of-trump-administration-hiring-freeze/?utm_term=.6c2e70d8581e.

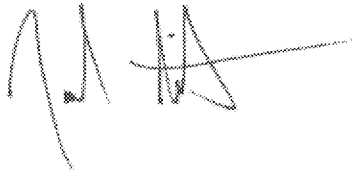
⁹ Because Sierra Club has no commercial interest, the Club also satisfies the final factor for a fee waiver, which compares the magnitude of an identified commercial interest to the public interest in disclosure.

501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of Sierra Club's mission to inform the public on matters of vital importance to the environment and public health.

Sierra Club respectfully requests that EPA waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) because the public will be the primary beneficiary of this requested information. In the event that your agency denies a fee waiver, please send a written explanation for the denial. Please do not incur expenses beyond \$250 without first contacting our office for explicit authorization.

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me at (415) 977-5560 or email me at joshua.smith@sierraclub.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua Smith', with a long horizontal line extending to the right.

Joshua Smith
Sierra Club
Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612

STAFF CHECKLIST FOR TRANSMITTAL OF RECORDS/INFORMATION**EPA-R6-**

YES NO N/A

Program has responsive records

Searched all possible locations (hard copy/e-mail,
Files in workstation, file rooms, hard/flash/shared drives,
CDs, blackberries etc.)

Advised RFO/DFC of any special circumstances/
Sensitivity related to the FOIA Request

Consulted with the FOIA Requester and/or RFO/DFC
For further clarification of the request

Completed "Certification of Adequate Search" form
for "No Records" Response

Completed Cost Sheet

Provided responsive records to the assigned FOIA
Specialist by due date on transmittal form

Date: _____ Signature: _____ Ext. _____

Printed Name: _____ Office Name: _____

COMMENTS: _____

**THIS FORM SHOULD BE COMPLETED AND RETURNED TO THE REGIONAL
FOI OFFICER ALONG WITH THE RESPONSIVE RECORDS, A COST SHEET AND
"NO RECORDS" CERTIFICATION FORM (IF NECESSARY), FOR EACH FOIA
REQUEST PROCESSED.**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

CERTIFICATION OF ADEQUACY OF SEARCH ON "NO RECORD" RESPONSES

I, _____, certify that I am employed by the Environmental Protection Agency, Region 6, in Dallas, Texas (or acting as a representative) as _____, that I am familiar with the records requested and/or that I am responsible for conducting the search for responsive records for Request Identification Number **EPA-R6-**_____, and that I have conducted an "adequate" search for responsive records by searching the below listed location(s) (as applicable):

- 1.
- 2.
- 3.

I further certify that I am aware that a search for responsive records need not be perfect, only adequate and that adequacy is measured and/or determined by the "reasonableness" of the effort of the search in light of the specific request. Specifically, I have searched for the documents in all places that it is practical for the documents to be located. Moreover, after conducting an adequate search for records on behalf of the

_____ Division/Unit, I have located no records responsive to this request or portions thereof. Further, I am attaching an itemized listing of all records which my search supports are not in the Region's possession.

Dated: _____, _____

Signature of Person Conducting Search

Dated: _____, _____

Signature of Designated Supervisor for
Person Conducting Search

Approved by OGC

INTERNAL USE ONLY – DO NOT SEND THIS TO REQUESTER

Please read instructions on back before completing form.

FOIA FEE CALCULATION WORK SHEET

| | | | | |
|---|---------------------|--------------------------------------|---------------------------------|------|
| 1.REQUEST NUMBER EPA-R6- | 2.TYPE OF REQUESTER | 3.DATE COMPLETED | 4.ACTION OFFICE | |
| <p>NOTE: The Freedom of Information Act and EPA's regulations state that the Federal Government must obtain a fee commitment from a FOIA requester before billing can occur. So if no fee commitment is plainly given in the request letter or if other Divisions also have records, please contact the requester. Provide the requester with an estimate. Make sure the requester understands what program records you refer to and make a note of his/her fee commitment.</p> | | | | |
| 5. FEE COMMITMENT AMT | | 6. DATE OF VERBAL/WRITTEN COMMITMENT | 7. FEE COMMITMENT RECEIVED FROM | |
| 8. CLERICAL PERSONNEL | | TOTAL HRS | ¼ HOUR RATE | COST |
| a. Search - \$4.00 @ ¼ HOUR | | | x \$4.00 = | |
| b. Review - \$4.00 @ ¼ HOUR | | | x \$4.00 = | |
| 9. PROFESSIONAL PERSONNEL | | TOTAL HRS | ¼ HOUR RATE | COST |
| a. Search - \$7.00 @ ¼ HOUR | | | x \$7.00 = | |
| b. Review - \$7.00 @ ¼ HOUR | | | x \$7.00 = | |
| 10. MANAGERIAL PERSONNEL | | TOTAL HRS | ¼ HOUR RATE | COST |
| a. Search - \$10.25 @ ¼ HOUR | | | x \$10.25 = | |
| b. Review - \$10.25 @ ¼ HOUR | | | x \$10.25 = | |
| 11. DUPLICATION/REPRODUCTION | | TOTAL | RATE OR ACTUAL | COST |
| a. Paper or Computer Page (2 sided copy = 2 copies) | | | x \$.15 pg = | |
| b. Diskette or CD (Specify 3 CD's, 1 CD etc.) | | | x \$ 1.00 each = | |
| c. Microfiche | | | x \$ 1.00/sheet = | |
| d. Microfilm | | | x \$10.00/cartridge = | |
| e. Video or Audio Cassette (Specify) | | | x \$5.00/each = | |
| f. Maps | | | | |
| g. Photos | | | | |
| 12. OTHER COSTS | | TOTAL | RATE OR ACTUAL | COST |
| a. Computer Cost | | | x = | |
| b. Certifications | | | x \$25.00 = | |
| c. Special Handling – Overnight Mail | | | x = | |
| d. Other | | | x = | |
| 13. ACTUAL ADMIN. COST FOR NON-BILLABLE STAFF TIME | | TOTAL | ¼ HOUR RATE | COST |
| a. Preparer's Name: _____ Grade/Step: _____ | | | x = | |
| b. Preparer's Name: _____ Grade/Step: _____ | | | | |
| 14. FOR FOIA OFFICE USE ONLY | | | | |
| a. TOTAL ADMINISTRATIVE/PROCESSING FEES _____ | | c. TOTAL CHARGED _____ | | |
| b. TOTAL COLLECTABLE FEES _____ | | d. FEES WAIVED/REDUCED YES OR NO | | |

INSTRUCTIONS FOR COMPLETING THE FOIA FEE CALCULATION WORK SHEET

Pursuant to the Electronic Freedom of Information Act Amendment of 1996, the Annual Report to Congress that all agencies are required to submit must include the administrative cost to implement FOIA.

The FOI Office will generate a bill for the requester but we also need your help to capture the actual administrative cost to process a FOIA request. Therefore, this worksheet is to be completed for all FOIA requests by all personnel involved in answering a FOIA request. Please complete the following information and return it to the FOIA Office along with a copy of the response letter. If you have any questions, please contact Leticia Lane at 214-665-7202 or lane.leticia@epa.gov.

1. REQUESTER NUMBER - e.g., 06-FOIA-0342-03.

2. TYPE OF REQUESTER

#1 Commercial Use Request: requester charged for search, review & duplication costs.

#2 Educational & Non-Commercial Scientific Institutions: requester charged for duplication costs excluding the first 100 pages.

#3 Representative of the news media: requester charged for duplication costs excluding the first 100 pages.

#4 All Other Requests: requester charged for search & duplication time excluding the first two hours of search time & the first 100 pages of duplication.

3. DATE COMPLETED - Enter month, day and year.

4. ACTION OFFICE - Mail code of responder.

5. FEE COMMITMENT AMT - fee commitment amount received from requester for the processing of FOIA request.

No Fee Charged for $\leq \$14.00$

Bills sent between \$14.01 - \$25.00, no payment assurance required
Written Assurance of payment from requester for amounts $> \$25.00$

6. DATE OF VERBAL / WRITTEN COMMITMENT - date when verbal or written fee commitment was given.

7. FEE COMMITMENT RECEIVED FROM - name of person from which you received verbal or written fee commitment.

8. CLERICAL PERSONNEL - enter total hours x hourly rate = cost.

a. Search - Time spent in locating the requested information.

b. Review - Time spent in reviewing the document content for releasable documents.

9. PROFESSIONAL PERSONNEL - enter total hours x hourly rate = cost.

Search/Review - see explanation above.

10. MANAGERIAL PERSONNEL - enter total hours x hourly rate = cost.

Search/Review - see explanation above

11. DUPLICATION / REPRODUCTION - Enter Total x Rate or Actual = Cost.

12. OTHER COSTS - Enter Total x Rate or Actual = cost.

13. ACTUAL ADMIN. COST FOR NON-BILLABLE STAFF TIME -
enter total x hour rate = cost

Time spent in activity other than above, such as hand carrying documents to other locations, restoring files, preparing ltr, telephone calls etc.

a. Preparer's Name is the person who prepares ltrs/telephone calls etc. Grade/Step is grade & step of preparer.

14. FOR FOIA OFFICE USE ONLY

a. Total Administrative / Processing Fees - add the actual administrative cost block in the cost column.

b. Total Collectable Fees - add the review / search blocks in the cost column.

c. Total Charged - enter the amount that the requester was charged.

d. Fees Waived / Reduced - indicate if the cost of processing the request was waived or reduced by circling yes or no.

eDiscovery MS Outlook Search request through HQ (FOIA/Congressional/Litigation/Employment)

Please fill in as indicated to begin the process.

Request Date: _____

Request Title or Identifier: FOIA Request – EPA-R6-_____ - _____

Relevant Information: [MS Outlook email search needed for user name: [First/Last Name and email address(es)-include any additional instructions, email files for an ex-employee-provide the name(s), who will be the reviewer(s) of the workspace collection: [First/Last Name and email address(es)] or do you have additional information to provide to the search technicians who will process your request]

Keywords: [Enter unique words or phrases to be used to identify potentially relevant information for your search request. **Use logical operators**, “AND”, “OR” and “NOT”, to define search terms.]

Date Range (OEI can only search employee MS Outlook email from January 31, 2013 to Present-read 1.f. below) : [From and to]

Required by Date: _____

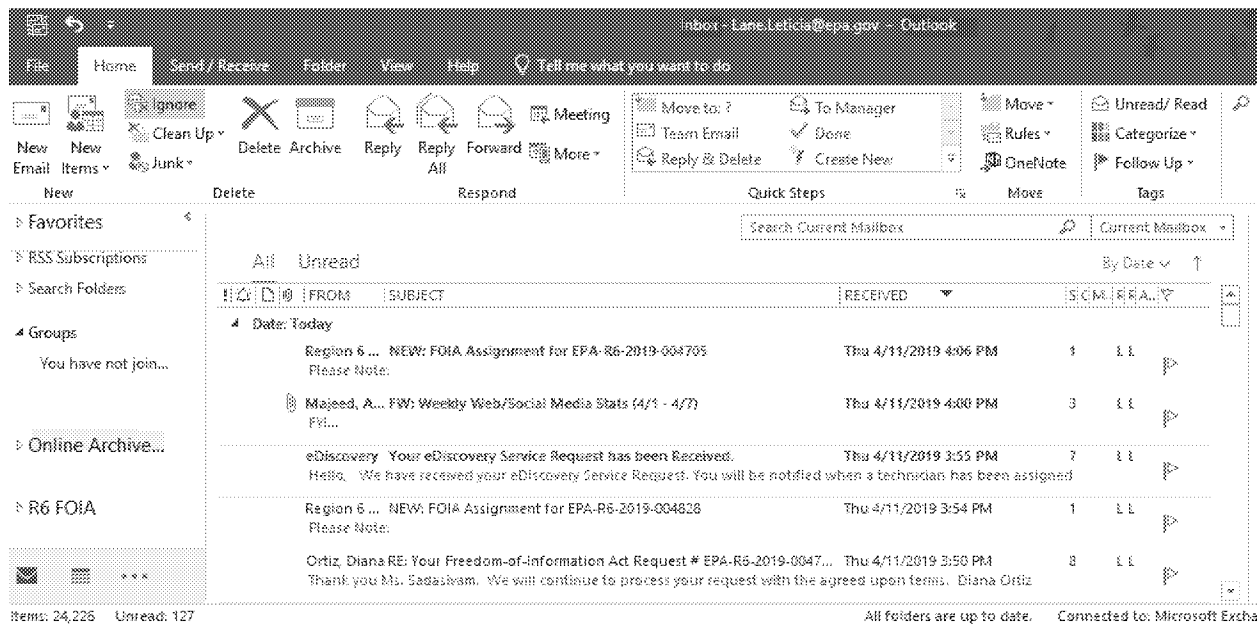
E – Discovery Request Process

SUMMARY:

If you need an MS Outlook email records search to respond to a FOIA, Congressional Inquiry, Litigation, Employment, information requests that require an official Agency response. A search request is conducted by the eDiscovery SharePoint Site Technical Team at EPA Headquarters. Search Points of Contacts (SPOC) for Region 6 are Sam Alaw and Leticia Lane, submit Region 6 MS Outlook search requests through the eDiscovery SharePoint Site.

1. Request submission:

- a. Requester/user needs to submit an email to SPOCs, Sam Alaw (alaw.sam@epa.gov) and Leticia Lane (lane.leticia@epa.gov). Requester/user will need to fill in above page of this document and copy paste into an email to the SPOCS, in your email include your Division FOIA Coordinator (DFC) and the FOIA Office (Nancy Ho and Shirley Langley). If the FOIA request is assigned/tasked to Multiple Divisions and an eDiscovery request is needed, concur with Division FOIA Coordinators or other Divisions if additional custodians need to be included in the eDiscovery request before submitting to SPOCS.
- b. When the SPOC receives the search request, the request is reviewed by the SPOC and is also emailed to Yerusha Donaldson, 6RC attorney, for review. If clarification is needed, the SPOC will contact the requester.
- c. When the search request is entered in to the eDiscovery SharePoint site, the SPOC receives an automatic email from the eDiscovery SharePoint site with confirmation receipt of the request. SPOC sends an email to requester/user notifying them that eDiscovery request has been submitted to Headquarters.
- d. If the eDiscovery/eDAT/Relativity teams have questions, they will communicate with the SPOC. The eDiscovery Team sends a Preliminary Search Result email with the ED_000000 number, email is sent to the SPOCs and the SPOC responds to confirm the search criteria listed in email is correct and to confirm that the estimated results are acceptable.
- e. When you enter the Date Range on your eDiscovery request, please note that OEI can only search custodian/user email in MS Outlook from January 31, 2013 to Present.
- f. Email searches prior to January 31, 2013, should be conducted by custodian/user in their emails Inbox /Outlook, Online Archive folder search by subject (see below).



2. Completion of MS Outlook eDiscovery Search:

- a. An eDiscovery email is sent to the SPOCs (Leticia Lane/Sam Alaw) once the search request is completed and workspace is available for review. The SPOCs send an email to relativity support to request custodians and others as reviewers to the workspace. Once relativity support concurs with an email to the SPOCs that access has been granted. The SPOCs send an email to the requested Reviewers, cc the Division FOIA Coordinator (DFC) and the FOIA Office (Nancy Ho/Shirley Langley), notifying them that the search request has been completed and the workspace is available for review and provide email link to Relativity 9.5. Please note the completed email, will include the eDiscovery number that identifies the workspace (ED_000000).

3. Relativity access:

- a. If the user has issues with access to Relativity. The Relativity Support Team can set up an account for new users once, once the account is set up, the user receives their ID and temporary password. After that, user will need to keep up with Relativity passwords, passwords expire every 90 days. For users who have an account in Relativity, users will receive a prompt every 90 days to change their password. If they do not do so within the 90 days, they will be locked out of their account and they will have to contact relativitysupport@epa.gov for a password reset.
- b. If this is your first time using Relativity, please identify this when you submit your MS Outlook search request, so SPOC can notify relativity support to create an account. **Create an account/Reset an account-** Please email relativitysupport@epa.gov for general eDiscovery inquiries or requests. (Headquarters). Relativity support sends a separate email to you once created and or reset.

- c. **Issues with Viewing the workspace** – Users need to submit a (Region 6) IT Help Desk work order ticket at <http://region6a.epa.gov/intranet/6md/helpdesk/support/index.php>, or call x6437, for an upload to the Relativity Viewer Software.

4. Additional access to completed Relativity Workspace:

- a. If you need additional access for Reviewers or users to a specific completed Relativity workspace, please send an email to the SPOCs, cc your DFC, the FOIA Office and include the following information in your email, the **ED_ identification number, FOIA request number and the names of the reviewers/users, include your reason for the review (1) if just a simple review is needed or (2) 6RC staff person(s) needed to review Withheld/Redacted documents in the workspace.**

5. Reviewer to request – folders through Ediscovery Staff:

- a. Reviewers will need to identify all responsive documents in the Relativity workspace.
- b. Mark records as redacted or withheld when needed.
- c. Reviewers need to request through relativitysupport@epa.gov , to create the following Release Type folders in the Relativity Workspace for the reviewer to place responsive documents:
 - a. Un-Redacted-Un-Releasable
 - b. Redacted-Un-Releasable
 - c. Un-Redacted-Releasable to General Public
 - d. Redacted-Releasable to General Public

6. Relativity Resource Center has a lot of information on it in the form of Quick Reference Guides, User Guides, Quick Videos, and Videos of longer training classes (Relativity 101, 102, and 103). You can always access the site through Relativity by clicking on the “Relativity Resource Center” bookmark the following link:

https://usepa.sharepoint.com/sites/oei_Community/relativity/SitePages/Home.aspx